

**EXHIBIT D**

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June 1, 2004

**By Facsimile**

Spencer Hosie  
Hosie Frost Large & McArthur  
1 Market Street  
Spear Street Tower, 22nd Floor  
San Francisco, CA 94105

Re: MDL 1332; Burst v. Microsoft Corporation

Dear Spencer:

I received your May 28, 2004 letter regarding your request to depose Microsoft's prosecution counsel, including an anonymous quote allegedly from a Microsoft attorney about deposing a different client's prosecuting attorney, and your voice mail from Saturday afternoon threatening to file a motion to compel.

As I am sure you know, the attorney who prosecuted the *patent in suit* is sometimes deposed in a patent case, and in fact, Microsoft deposed Burst's prosecuting counsel, Mr. Hein, in this case. But like your other case against Microsoft, Burst's patent is at issue in this case because Burst *sued* Microsoft for infringing that patent. The relevancy of Burst's patent counsel, and his knowledge of non-privileged information, is therefore so clear as to need no explanation. Indeed, when we requested Mr. Hein's deposition, you never asked for any explanation. In fact, Mr. Hein's knowledge and actions directly underlie one of Microsoft's defenses. Undoubtedly, all of this is also true in your other case against Microsoft. And it appears that you were resisting the deposition of the attorney who prosecuted the *patent in suit* in your other case.

Conversely, Microsoft's patent applications are not at issue in this case. Microsoft has not sued Burst on these patent applications, nor could it have because they have not even issued as patents. Simply put, we cannot fathom what relevant or non-privileged information Burst could possibly be seeking from Microsoft's counsel.

**SIDLEY AUSTIN BROWN & WOOD LLP**

**CHICAGO**

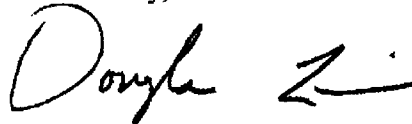
Spencer Hosie

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Thus, as requested in my earlier letter, for us to consider your request, please identify: (1) what information you seek from Microsoft's attorney, (2) why that information cannot be obtained from non-lawyers, (3) what relevance that information has to this case, and (4) why that information is not privileged. After we receive this information, we will promptly let you know whether we will make Microsoft's attorney available for deposition.

Sincerely,

A handwritten signature in black ink, appearing to read "Douglas I. Lewis". The signature is fluid and cursive, with a large initial "D" and a stylized "L".

Douglas I. Lewis